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Attorneys for Defendants Juan Jose Soriano
Avila; PKR Transport, Inc.,

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Abel Alexey Rodriguez Melgarejo,
individually; Lisandro Luis Gomez
Estrada, individually,

Plaintiff,

v.

John Chatman and Jane Doe Chatman,
husband and wife; Nav Star Express, Inc.,
a foreign corporation; Juan Jose Soriano
Avila and Jane Doe Avila, husband and
wife; PKR Transport, Inc., a foreign
corporation; ABC Partnerships I-X; XYZ
Corporations I-X; John Does I-X and Jane
Does I-X,

Defendants.

No. TBD

NOTICE OF REMOVAL

Defendant PKR Transport, Inc. ("Removing Defendant"), by and through undersigned counsel, hereby files the following Notice of Removal of this action, currently pending in the Superior Court of the State of Arizona, County of La Paz, Case No. S1500CV202200015 to the United States District Court for the District of Arizona, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. As grounds for removal, Removing Defendant states as follows:

PROCEDURAL HISTORY

1
2 1. The above-captioned case commenced when Plaintiffs, Abel Alexey
3 Rodriguez Melgarejo (“Melgarejo”) and Lisandro Luis Gomez Estrada (“Estrada”), filed a
4 Complaint in Superior Court in and for La Paz County, on February 23, 2022 (the
5 “Complaint”). *See* Complaint, along with complete copy of Superior Court file, attached
6 as Exhibit 1.

7 2. Removing Defendant was served with process through its statutory
8 agent on May 20, 2022.

9 3. A responsive pleading on behalf of Removing Defendant has not yet
10 been filed.

TIMELINESS OF REMOVAL

11
12 4. Under 28 U.S.C. § 1446(b)(1), a notice of removal shall be filed
13 within thirty (30) days after the receipt by the defendants, through service or otherwise, of
14 a copy of the initial pleading setting forth the claim for relief upon which such action or
15 proceeding is based.

16 5. This Notice of Removal is filed within thirty (30) days after the
17 Complaint was received by Removing Defendant and, therefore, is timely. *See* 28 U.S.C.
18 § 1446(b)(1).

19 6. A Notice of Filing Notice of Removal is being filed with the Superior
20 Court in and for La Paz County. *See* Notice of Filing Notice of Removal (exclusive of
21 exhibits), attached as Exhibit 2.

BASIS OF REMOVAL

22
23 7. This Court has original jurisdiction over this action pursuant to 28
24 U.S.C. § 1332 because the amount in controversy exceeds \$75,000 and there is complete
25 diversity of citizenship. *See* 28 U.S.C. § 1332(a).

26 8. Plaintiff claims personal injuries as a result of Defendant’s alleged
27 liability. While the Complaint does not assert a specific amount of medical specials, it
28 alleges harm in an amount qualifying this case as a Tier 3 case pursuant to Rule 26.2(b)

1 Ariz. R. Civ. Pro, meaning the damages are in excess of \$300,000. Moreover, Plaintiff
2 Melgarejo has already disclosed \$83,248.12 in medical expenses and Plaintiff Estrada has
3 disclosed \$541,516.87 in medical expenses. Accordingly, the amount in controversy
4 exceeds \$75,000.

5 9. According to the Complaint, Plaintiff Melgarejo resides in Miami-
6 Dade County, Florida, where he presumably intends to remain. He is thus considered a
7 citizen of Florida.

8 10. According to the Complaint, Plaintiff Estrada resides in Collier
9 County, Florida, where he presumably intends to remain. He is thus considered a citizen
10 of Florida.

11 11. Removing Defendant is incorporated in Fontana, California and has a
12 principal place of business in Fontana, California. It is thus considered a citizen of
13 California.

14 12. Defendant Nav Star Express is incorporated in Fresno, California, and
15 has a principal place of business in Fresno, California. It is thus considered a citizen of
16 California.

17 13. Defendant Chatman resides in Fresno County, California, where he
18 intends to remain. He is thus considered a citizen of California.

19 14. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants “who have been
20 properly joined and served must join in or consent to the removal of the action” for all
21 actions removed based on diversity of citizenship. This is satisfied as Removing Defendant
22 is filing this Notice of Removal and Defendant Nav Star Express and Defendant Chatman
23 have consented to removal. Although Juan Jose Soriano Avila is named in the Complaint,
24 he is not properly joined as he is a deceased individual and therefore cannot be sued or
25 joined as a party to a lawsuit. *See LN Mgmt., LLC v. JPMorgan Chase Bank, N.A.*, 957
26 F.3d 943 (9th Cir. 2020).

27 **WHEREFORE**, Removing Defendant requests that the above action now
28 pending in the Superior Court in and for La Paz County be removed to this Court.

1 DATED this 20th day of June, 2022.

2 JONES, SKELTON & HOCHULI, P.L.C.

3
4 By s/Paul G. Davis

5 Phillip H. Stanfield

6 David L. Stout, Jr.

7 Paul G. Davis

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10 Attorneys for Defendants Juan Jose

11 Soriano Avila; PKR Transport, Inc.,

12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on this 20th day of June, 2022, I caused the foregoing
14 document to be filed electronically with the Clerk of Court through the CM/ECF System
15 for filing; and served on counsel of record via the Court's CM/ECF system.

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27 s/Kadie G. Lewis
28